United Nations S/AC.43/2009/3

Security Council

Distr.: General
23 February 2009
English
Original: French

Security Council Committee established pursuant to resolution 1533 (2004) concerning the Democratic Republic of the Congo

Note verbale dated 18 February 2009 from the Permanent Mission of France to the United Nations addressed to the Chairman of the Committee

The Permanent Mission of France to the United Nations presents its compliments to the Chairman of the Security Council Committee established pursuant to resolution 1533 (2004) concerning the Democratic Republic of the Congo.

Pursuant to paragraph 7 of Security Council resolution 1857 (2008), France would like to transmit to the Committee the following information on the implementation of the measures imposed by paragraphs 1, 2, 3, 4 and 5 of that resolution.

As indicated by Belgium in its note verbale of 6 February 2009, the members of the European Union have jointly implemented the restrictive measures imposed by resolutions 1807 (2008) and 1857 (2008) by adopting Council Common Position 2009/66/CFSP of 26 January 2009 amending Common Position 2008/369/CFSP. A Council regulation implementing the restrictions provided for in this common position will be adopted shortly.

With regard to the renewal, under paragraph 1 of resolution 1857 (2008), of the measures on arms imposed by paragraph 1 of resolution 1807 (2008), France has legislation requiring that an export licence be obtained for any supply, sale, transfer or export of arms and related materiel to third countries.

The Defence Code, and in particular Ordinance No. 2004-1374 of 20 December 2004, establishes the rules for war materiel, arms and ammunition. The Decree of 20 November 1991 establishes the list of war materiel and related items subject to a special export control procedure. The Decree of 2 October 1992 sets out the procedure for the import, export and transfer of war materiel, arms, ammunition and related items.

The French system for controlling the export of arms is based on a principle of prohibition and provides for a series of authorizations and for ongoing inter-ministerial dialogue.

09-24721 (E) 250209 250209

Ordinance No. 2004-1374 of 20 December 2004, which is included in the Defence Code, establishes the general principle that the export of war materiel is prohibited except where authorized.

Transactions involving the export of war materiel are controlled at two stages:

- First at the signing of the export contract: any negotiation, effective sale, signing of a contract or acceptance of an order is subject to the prior approval of the Government of France. Prior approval is given by the Secretary-General for National Defence on behalf of the Prime Minister;
- The materiel can then be physically exported only after the Director-General of Customs has granted an authorization for the export of war materiel, with approval from the Ministry of Defence, the Ministry of Foreign Affairs, the Ministry of Economic Affairs, Finance and Industry and the Secretary-General for National Defence on behalf of the Prime Minister.

The granting of prior approval for the signing of a contract does not oblige the French authorities to then authorize the export of the materiel in question.

France is party to all international instruments that provide for consultations on matters relating to arms exports. In particular, its export decisions are based on the criteria set out in international treaties, conventions, instruments or forums to which it is a party, notably the European Union Code of Conduct on Arms Exports adopted by the Council in 1998. France complies with the international embargoes decreed by the United Nations and the European Union against certain countries.

Paragraph 2 of resolution 1857 (2008) regarding restrictions on transport concerns only the countries of the region.

The financial measures imposed by paragraphs 3, 4 and 5 of resolution 1857 (2008) were implemented by Regulation No. 1183/2005, adopted by the Council of the European Union on 18 July 2005.

With respect to the travel measures imposed by paragraphs 3, 4 and 5 of resolution 1857 (2008), visas may be denied on the basis of the United Nations resolution alone. The names of the individuals included in the consolidated list of the Committee established pursuant to resolution 1533 (2004) are entered into the central watch register of the worldwide visa network, a register provided for in article 1 of the Decree of 22 August 2001, and communicated via the network to French diplomatic and consular offices abroad with instructions not to issue visas to the individuals subject to the sanctions.

France also denies visas on the basis of article 5, paragraph 1 (e), of the Convention implementing the Schengen Agreement and of Common Position 2009/66/CFSP of 26 January 2009.